CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	V	Force		Discourt.	U.S.
Erinn White		Team # 3	201108900	Ø	Abuse	V	O.L.	☐ Injury
Incident Date(s)		Location of Incident:)ma aim atı	10	Mo. SOL	EO SOL
` '			1	ľ	Precinct:			
Friday, 07/01/2011 10:00 PM		Grand Central Termina	ı	<u> </u>	14		/1/2013	1/1/2013
Date/Time CV Reported		CV Reported At:	How CV Reported:				eived at CC	
Mon, 07/11/2011 12:30 PM		CCRB	In-person		Mon, 07/1	1/201	1 12:30 PM	/I
Complainant/Victim	Type	Home Addre	SS					
Witness(es)		Home Addre	cc					
withess(es)		Home Addre	55					
Subject Officer(s)	Shield	TaxID	Command					
1. POM Michael Leone	24122	920500	TB DT04					
2. POM Hariton Marachilian	13084	935245	BXROBSQ					
3. POM Munir Alhidami	24110	940953	TB DT04					
Officer(s)	Allegatio	on			Inve	stiga	ator Recor	nmendation
A.POM Hariton Marachilian	Force: Officer Hariton Marachilian used physical force against \$87(2)(0)							
B.POM Munir Alhidami	Force: Officer Munir Alhidami used physical force against \$87(2)(b)							
C.POM Michael Leone	Force: Officer Michael Leone used pepper spray against \$87(2)(b)							
D.POM Michael Leone	Abuse: Officer Michael Leone threatened to arrest § 87(2)(b)							
E.POM Michael Leone	Force: O: § 87(2)(b)	fficer Michael Leone use	ed physical force ag	ains	t			
F.POM Hariton Marachilian	Off. Language: Officer Hariton Marachilian made remarks to based upon her sexual orientation.							
G.POM Munir Alhidami	Off. Lang § 87(2)(b)	guage: Officer Munir Al based upon her se		ks to				
H.POM Michael Leone	Off. Lang § 87(2)(b)	guage: Officer Michael I based upon her se		s to				
§ 87(4-b) § 87(2)(g)								

Case Summary On July 11, 2011, \$87(2)(6) filed this complaint in person with the CCRB on behalf of herself and \$87(2)(b) On July 1, 2011, \$87(2)(b) and his acquaintance, \$87(2)(b) were issued summonses at Grand Central Terminal for drinking open containers of alcohol on the train by PO Munir Alhidami, PO Hariton Marachilian, and PO Michael Leone of Transit District 4. The following allegations resulted from the interaction: Allegation A – Force: Officer Hariton Marachilian used physical force against 337(2)5) Allegation B – Force: Officer Munir Alhidami used physical force against § 87(2)(b) Allegation C – Force: Officer Michael Leone used pepper spray against [8] 87(2)(6) Allegation D - Abuse of Authority: Officer Michael Leone threatened to arrest §87(2)(b) Allegation E – Force: Officer Michael Leone used physical force against §87(2)(b) § 87(2)(g) Allegation F – Offensive Language: Officer Hariton Marachilian made remarks to \$87(2)(5) based upon her sexual orientation. Allegation G – Offensive Language: Officer Munir Alhidami made remarks to \$87(2)(b) **based upon her sexual orientation.** Allegation H – Offensive Language: Officer Michael Leone made remarks to [307(2)(b)] based upon her sexual orientation. § 87(2)(g)

Results of Investigation

Civilian Statements

Complainant: § 87(2)(b)

• \$87(2)(b) is a \$87(2)(b) -year-old Asian female who is 5'6" tall and weighs 124 pounds. She has brown eyes and brown hair.

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CCRB Statement

was interviewed at the CCRB (encl. 7a-7h). On July 1, On July 11, 2011, § 87(2)(b) 2011 at approximately 10:00 p.m., § 87(2)(b) exited the 4, 5, 6 platform after getting off the train at Grand Central Terminal. Outside the platform, in the vicinity of the turnstiles, \$87(2)(b) observed three plainclothes officers, identified as PO Munir Alhidami, PO Hariton Marachilian, and PO Michael Leone of Transit District 4, standing around a Hispanic male, identified through investigation as § 87(2)(b) The officers were using their hands to push § 87(2)(b) the ground. § 87(2)(b) who did not appear to speak much English, kept trying to stand and asked the officers why they were doing this. He was not resisting the officers, appeared to be "panicked", and was crying. The officers, who did not give \$87(2)(b) any commands or orders, and made fun of his poor English. \$87(2)(b) stated that the officers were laughed at § 87(2)(b) asking each other "What is he saying?" and similar statements. §87(2)(b) observed the officers into the ground at least three to four times. § 87(2)(6) approached the men and stood approximately ten to fifteen feet away. [397(2)(b) took out her digital camera and began taking photos of the interaction. One of these photographs depicts \$87(2)(b) on the ground while PO Leone is standing near him with an object in his hand. She was worried that was not aware of his legal rights and told him not to say anything to the officers. She also for his phone number. All three officers began to repeatedly tell § 87(2)(b) leave the scene, during the course of which, all three officers referred to \$37(2)(5) transgender woman, as a "faggot". The officers stated, "Leave, faggot." and similar statements. told the officers that she did not do anything wrong and did not have to leave. She and the officers continued to argue.

Fifteen to twenty minutes into the incident, PO Leone took out a container of pepper spray and sprayed § 87(2)(b) in the eyes as he was trying to stand up. § 87(2)(b) was not sure why he was sprayed; PO Leone did not give any orders or commands to \$87(2)(b) iust prior to spraying him and \$87(2)(b) did not observe \$87(2)(b) get physical with officers. \$87(2)(b) asked to go to the bathroom, but the officers would not allow him to. \$37(2)(5) told the officers to the bathroom. PO Leone approached § 37(2)(b) and told her to leave. § refused. PO Leone then stated, "Leave or I'll arrest you, faggot." PO Leone grabbed and began leading her out of the subway, at times pushing and pulling on her arm. Once outside the building, §87(2)(b) and PO Leone began to argue. As they were arguing, PO Alhidami and PO Marachilian lead \$87(2)(b) outside and pushed him against a wall. \$87(2)(b) continued to argue with PO Leone and then eventually noticed that PO Alhidami and PO Marachilian had taken \$87(2)(b) back inside the building to the subway entrance. \$87(2)(b) entered the building and observed that §87(2)(b) was handcuffed and being pushed into the ground again by PO Alhidami and PO Marachilian. She continued to argue with the officers, who repeatedly told \$87(2)(b) to leave. Two older civilian black women then grabbed \$57(2)(b) lead her outside, to prevent her from arguing with the officers. [87(2)(5)] did not engage with the officers again and soon saw §87(2)(b) being transported away from the scene in an ambulance.

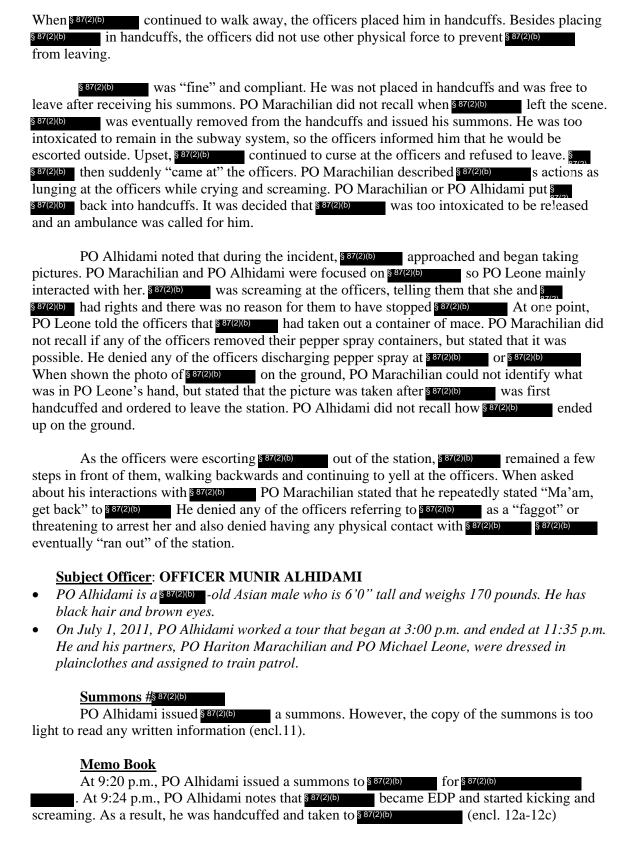
<u>Witness:</u> § 87(2)(b)

• § 87(2)(b) is a § 87(2)(b) -old Hispanic male.

CCRB Statement

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to walk up to the mezzanine area. Once in the mezzanine area, \$87(2)(b) started to act strangely. He moved his body around and threw himself on the ground, repeatedly saying he had to use a restroom. The officers instructed him to not urinate on himself. \$37(2)(b) and \$37(2)(b) were handcuffed. The officers did not use force against \$37(2)(b) or \$37(2)(b) was issued a summons for \$37(2)(b) and allowed to leave. \$37(2)(b) left. \$37(2)(b) did not see the conclusion of this incident. \$37(2)(b) did not observe \$37(2)(b) s interaction with the officers. A few days after this incident, \$37(2)(b) met \$37(2)(b) and asked him what happened once he left. \$37(2)(b) stated that he was removed to a hospital for evaluation due to his behavior on the scene. He did not make any statements regarding force being used against him nor did he complain of anything the officers did.
Attempts to Contact Civilians \$87(2)(b)
No aided or subway ejection report was completed in regards to the incident. Since a date of birth and address could not be obtained for \$87(2)(6) a Lexis Nexis search could not be performed. As of the date of this report, the CCRB has been unable to obtain contact information for \$87(2)(6) and \$87(2)(6) has not contacted the CCRB. NYPD Statements:
 Subject Officer: OFFICER HARITON MARACHILIAN PO Marachilian is a same of the point of the point
Memo Book At 9:20 p.m., PO Marachilian issued a summons to \$87(2)(b) for \$87(2)(b) He also notes that the individual being issued a summons by PO Alhidami was an EDP and uncooperative, resulting in him being taken to \$87(2)(b) (encl. 9a-9c)
On May 29, 2012, PO Hariton Marachilian was interviewed at the CCRB (encl. 10a-10b). 887(2)(b) and 887(2)(b) were removed from the train after PO Alhidami observed the men with open containers of beer on the train. The two men were removed from the train at Grand Central Terminal. PO Marachilian began completing a summons for 887(2)(b) As they were completing the summonses, 887(2)(b) who appeared intoxicated, suddenly began to act "disorderly" and was uncooperative. He began cursing at the officers, saying "this is bullshit" and "let me go". 887(2)(b) soon began walking away from the scene. The officers told him he was not free to leave.



CCRB Statement

On April 3, 2012, PO Munir Alhidami was interviewed at the CCRB (encl. 13a-13c).

87(2)(g)

As the officers were completing the summonses \$\frac{837(2)(b)}{2}\$ who appeared to be intoxicated, began "acting up" started cursing and screaming at the officers. The context of his statements indicated that \$\frac{837(2)(b)}{2}\$ was upset about being stopped and having his beer taken away. The officers explained to \$\frac{837(2)(b)}{2}\$ only spoke Spanish, which caused a language barrier. The officers had \$\frac{837(2)(b)}{2}\$ sit down after he attempted to walk away. \$\frac{837(2)(b)}{2}\$ squirmed and kicked while on the ground and repeatedly tried to stand. The officers ordered him to sit down several times (which he seemed to understand). PO Alhidami recalled that the officers attempted verbally and physically to keep \$\frac{87(2)(b)}{2}\$ seated, but did not recall the nature of the physical force used. PO Alhidami did not recall if \$\frac{87(2)(b)}{2}\$ was in handcuffs at this point. After \$\frac{87(2)(b)}{2}\$ s summons was issued, the officers told him to wait for \$\frac{87(2)(b)}{2}\$ s summons to be completed so they could leave together. However, the officers soon told \$\frac{87(2)(b)}{2}\$ to leave as \$\frac{87(2)(b)}{2}\$ became increasingly disorderly.

PO Alhidami's back was to \$\frac{87(2)(0)}{100} for the majority of the incident and he only heard most of the interactions between PO Leone and \$\frac{87(2)(0)}{100} PO Leone repeatedly ordered \$\frac{87(2)(0)}{100} to leave the scene. \$\frac{87(2)(0)}{100} left and returned several times. When informed that \$\frac{87(2)(0)}{100} removed mace from her bag, PO Marachilian told PO Leone to "handle it". PO Alhidami did not know if the interactions between PO Leone and \$\frac{87(2)(0)}{100} became physical, but denied that pepper spray was used against \$\frac{87(2)(0)}{100} or \$\frac{87(2)(0)}{100} by any officer during the incident. He did not recall if he or his partners removed their pepper spray, but believed it might have first been taken out when \$\frac{87(2)(0)}{100} took out her canister. When shown a photo of \$\frac{87(2)(0)}{100} on the ground, PO Alhidami identified PO Leone as the officer with a pepper spray container pointed at \$\frac{87(2)(0)}{100} He stated that it was removed as a precaution, "in case things [escalated]". PO Alhidami denied any of the officers calling \$\frac{87(2)(0)}{100} a "faggot", noting that he only ordered \$\frac{87(2)(0)}{100} to leave the scene.

After receiving his summons, \$\frac{87(2)(b)}{87(2)(b)}\$ began to behave "irrationally". He put the summons in his pocket and began to walk away, but then suddenly re-engaged with the officers, cursing and screaming at them. The officers told \$\frac{87(2)(b)}{87(2)(b)}\$ he was free to go, but he continued to "act crazy". The officers realized \$\frac{87(2)(b)}{87(2)(b)}\$ was too intoxicated to be released and called for additional units and an ambulance. The officers then attempted to place \$\frac{87(2)(b)}{87(2)(b)}\$ in handcuffs. \$\frac{87(2)(b)}{87(2)(b)}\$ resisted by fidgeting and moving his hands; the officers used force by grabbing his hands and bringing them together. Additional units and the ambulance arrived at approximately the same time and \$\frac{87(2)(b)}{87(2)(b)}\$ was transported to \$\frac{87(2)(b)}{87(2)(b)}\$.

Subject Officer: OFFICER MICHAEL LEONE

- PO Leone is a \$87(2)(b) -old white male who is 5'10" tall and weighs 195 pounds. He has blue eyes and is bald.
- On July 1, 2011, PO Leone worked a tour that began at12:00 p.m. and ended at 8:35 p.m. He and his partners, PO Munir Alhidami and Hariton Marachilian, were dressed in plainclothes and assigned to train patrol.

Memo Book

At 9:20 p.m., PO Leone notes being at Grand Central Terminal (encl. 14a-14e).

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CCRB Statement

On May 8, 2012, PO Michael Leone was interviewed at the CCRB (encl. 15a-15b). Approximately five minutes into PO Alhidami and PO Marachilian completing summonses for \$87(2)(b) and \$87(2)(b) walked up to the officers, standing four to five feet away, and began taking photographs with a digital camera. This action appeared to who asked why pictures were being taken of him. He began to behave erratically and refused to stand still, leading the officers to place him in handcuffs. PO Leone asked §87(2)(b) if he could help her and she replied that she was observing the incident to make sure \$87(2)(b) was being treated fairly. PO Leone asked \$87(2)(b) if she knew what was going on. She replied that she did not. PO Leone then ordered \$87(2)(b) up ten to fifteen feet. § 37(2)(b) complied at first, but soon came closer to the officers and continued to take photographs. PO Leone repeatedly told \$87(2)(b) she was interfering with police business and asked her to leave. §87(2)(b) refused at first, but then voluntarily began to walk away from the scene. Outside the turnstile area, \$87(2)(6) suddenly removed a canister of mace from her purse. PO Leone alerted his partners and tried to escort § 87(2)(b) out of the station. He denied making any physical contact with \$37(2)(5) and stated that when he went to escort her out, \$87(2)(5) ran up the stairs and "into the wind". PO Alhidami and PO Marachilian had no interactions with § 87(2)(b) PO Leone could not recall if \$87(2)(b) made any statements or if any physical attempts were made to remove \$87(2)(b) when he refused to leave the station, but stated that was handcuffed a second time when it was determined he was too intoxicated to be released. PO Leone denied any of the officers calling [807(2)(b)] a "faggot" (though he did refer to as a man throughout the interview) or threating to arrest her. He also denied any of the officers discharging their pepper spray. When shown the photograph of an officer pointing a PO Leone could not recall what was occurring at the time the photo was taken and could not identify the officer holding the canister. He stated that he took his pepper spray canister out when they originally arrived at the mezzanine, before § 37(2)(b) showed up. He had his canister out "basically the entire time" for the safety of himself and his partners. **NYPD Documents**

SPRINT and Aided Reports

Requests for SPRINT and Aided reports related to the incident were negative. Without this information, the ambulance call report that would potentially have contact information for could not be requested (encl. 22a-22k).

Summons for Incident and Disposition

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]	

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Status of Civil Proceedings
have not filed a Notice of Claim with the City of New York as of July 11, 2012 with regard to the incident (encl. 21a-21h).
Civilians Criminal History • [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
Civilians CCRB History
• § 87(2)(b)
• § 87(2)(b)
 Subject Officers CCRB History PO Marachilian has been a member of the service for eight years and there are no substantiated CCRB allegations against him (encl. 1). PO Alhidami has been a member of the service for six years and there are no substantiated CCRB allegations against him (encl. 2). PO Leone has been a member of the service for fourteen years and there are no substantiated CCRB allegations against him (encl. 3).
<u>Conclusion</u>
During her interview, \$87(2)(6) identified PO Marachilian via photograph as the officer who mainly interacted with her and escorted her out of the train. She also alleged he pepper sprayed \$87(2)(6) She described the officer as being bald and 5'10" to 6'0" tall. However, PO Leone was the only bald officer on scene. Furthermore, all three officers testified that PO Leone mainly interacted with \$87(2)(6) and the photographs taken by \$87(2)(6) show PO Leone pointing a pepper spray canister at \$87(2)(6)
Investigative Findings and Recommendations
Allegation A – Force: Officer Hariton Marachilian used physical force against 887(2)(5)
Allegation B – Force: Officer Munir Alhidami used physical force against \$87(2)(b) alleged that she observed the officers push \$87(2)(b) into the ground at least three to four times, as he continually attempted to stand. \$87(2)(b) stated that he and \$37(2)(b) were placed in handcuffs, but denied that force was used against \$87(2)(b) or himself while he was on scene. The officers stated that \$87(2)(b) began acting erratically by screaming cursing, and walking away from the scene and was placed in handcuffs as a result. PO Alhidami recalled that the officers attempted verbally and physically to keep \$87(2)(b) seated as the summonses were being completed, but did not recall the nature of the physical force used. PO

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Marachilian noted that besides placing [\$87(2)(b)] in handcuffs, the officers did not use other physical force to prevent [\$87(2)(b)] from leaving or when escorting him out of the station.
Officers can use the minimum force necessary to restrain a mentally ill or emotionally disturbed person until delivered to a hospital or detention facility (<u>Patrol Guide Procedure 216-05</u> ; encl. I-V).
§ 87(2)(g)
§ 87(2)(g)
Allegation C – Force: Officer Michael Leone used pepper spray against alleged that PO Leone discharged pepper spray at \$87(2)(b) A photograph that she provided of the incident shows an officer, identified by PO Marachilian and PO Alhidami as PO Leone pointed a canister of pepper spray at \$87(2)(b) \$87(2)(
arrest of a resisting suspect, for self-defense or defense of another from unlawful force, or to take a resisting emotionally disturbed person into custody (<u>Patrol Guide Procedure 212-95</u> ; encl. VIIX.).
§ 87(2)(g)
§ 87(2)(g)

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Allegation D – Abuse of Authority: Officer Michael Leone threatened to arrest 887(2)(6)
Allegation E – Force: Officer Michael Leone used physical force against \$87(2)(6) \$87(2)(6) alleged that PO Leone threatened to arrest her and, later, pushed or pulled her out of the subway by her arm. The officers denied making physical contact with \$87(2)(6) testified that \$87(2)(6) became involved in the incident by taking photos, talking to \$87(2)(6) and yelling at the officers. It is undisputed that \$87(2)(6) was told multiple times to either step back from the scene and/or to leave the station and repeatedly refused and argued with the officers.
Officers can use the minimum force necessary to overcome a resisting individual (<u>Patrol Guide Procedure 203-11</u> ; encl. XXI.).
§ 87(2)(g)
§ 87(2)(g)
Allegation F – Offensive Language: Officer Hariton Marachilian made remarks to based upon her sexual orientation.
Allegation G – Offensive Language: Officer Munir Alhidami made remarks to §87(2)(b)
based upon her sexual orientation.
Allegation H – Offensive Language: Officer Michael Leone made remarks to \$87(2)(b)
based upon her sexual orientation. \$87(2)(b) who is a transgender woman, alleged that PO Marachilian, PO Alhidami, and
PO Leone all called her a "faggot" during the incident. The officers denied this, stating that they
only told \$87(2)(b) to step back and/or leave the station.
§ 87(2)(g)
§ 87(4-b) § 87(2)(g)
8 07 (4-1) 8 07 (2)(9)

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§ 87(4-b) § 87(2)(g)			
Taami			
Team:		:	
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Investigator:			
Signature	Print	Date	
Supervisor:			
Title/Signature	Print	Date	
Daviassan			
Reviewer:	Print	Date	
Title/Signature	1 11111	Date	
Reviewer:			
Title/Signature	Print	Date	